

## **REMARKS**

In response to the above-identified Office Action, Applicants submit the following remarks and seek reconsideration thereof. Claims 1-129 are now pending in the present application. In this response, no claims are amended, no claims are added and no claims are cancelled.

### **I. Claim Rejections – 35 U.S.C. §103**

A. In the outstanding Office Action, the Examiner rejects claims 1-129 under 35 U.S.C. §103(a) as being unpatentable over U.S. Publication No. 2002/0152474 issued to Dudkiewicz (“Dudkiewicz”) in view of U.S. Patent No. 6,317,881 issued to Shah-Nazaroff et al. (“Shah-Nazaroff”).

While Applicant does not accept the Examiner’s analysis of the references of record, it is not necessary to address the substance of the rejection here. Applicant respectfully submits that Dudkiewicz is not a proper reference against the instant application because the subject matter of the rejected claims was invented prior to the effective date of Dudkiewicz. Applicant submits herewith a Declaration pursuant to 37 C.F.R. § 1.131 and supporting evidence showing that Applicant had reduced the claimed subject matter to practice at least as early as April of 2000. In particular, Applicant had defined the market requirements, product requirements, coded, completed and demonstrated a fully operating prototype of the invention as claimed by this date. Alternatively, the Declaration shows that Applicant conceived of the invention at least as early as October of 1999 coupled with diligence from just prior to the entry of Dudkiewicz into the field up until actual or constructive reduction to practice.

Moreover, as evidenced by the Examiner’s admission that Dudkiewicz fails to teach various elements recited in the independent claims, the reference does not claim the same patentable invention as Applicant. Accordingly, the Declaration pursuant to 37 C.F.R. § 1.131 is proper.

Since Applicant had not only conceived the claimed invention prior to Dudkiewicz’s filing date but had also reduced it to practice prior to that date, Dudkiewicz is not a proper reference. Since the Examiner relies on Dudkiewicz in rejecting all pending claims, Applicant respectfully requests withdrawal of the rejection of claims 1-129 under 35 U.S.C. §103.

**CONCLUSION**

In view of the foregoing, it is believed that all claims now pending, namely, claims 1-129, are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR, & ZAFMAN LLP

Dated: January 12, 2007

By: Thomas Coester  
Thomas M. Coester Reg. No. 39,637

12400 Wilshire Boulevard  
Seventh Floor  
Los Angeles, California 90025  
(310) 207-3800

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail with sufficient postage in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on January 12, 2007.

Si Vuong  
Si Vuong